

109TH CONGRESS
1ST SESSION

H. CON. RES. 203

Expressing the sense of the Congress that the United States should work to expand membership in the Agreement on Government Procurement of the World Trade Organization and should urge the People's Republic of China to enter into immediate negotiations to join that agreement, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. RANGEL (for himself and Mrs. JOHNSON of Connecticut) submitted the following concurrent resolution; which was referred to the Committee on Ways and Means

CONCURRENT RESOLUTION

Expressing the sense of the Congress that the United States should work to expand membership in the Agreement on Government Procurement of the World Trade Organization and should urge the People's Republic of China to enter into immediate negotiations to join that agreement, and for other purposes.

Whereas nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement of goods and services is essential so that governments can acquire the best goods to meet their needs for the best value;

Whereas the Agreement on Government Procurement (GPA) of the World Trade Organization (WTO) provides a mul-

tilateral framework of rights and obligations founded on such principles;

Whereas the United States is a member of the GPA, along with Canada, the European Union (including its 25 member States: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, and Switzerland;

Whereas Albania, Bulgaria, Georgia, Jordan, the Kyrgyz Republic, Moldova, Oman, Panama, and Taiwan are currently negotiating to accede to the GPA;

Whereas the People's Republic of China joined the WTO in December 2001, signaling to the international community its commitment to greater openness;

Whereas when China joined the WTO, it committed, in its protocol of accession, to negotiate entry into the GPA "as soon as possible";

Whereas more than 3 years after its entry into the WTO, China has not commenced negotiations to join the GPA;

Whereas recent legal developments in China illustrate the importance and urgency of expanding membership in the GPA;

Whereas in 2002, China enacted a law on government procurement that incorporates preferences for domestic goods and services;

Whereas the first sector for which the Chinese Government has sought to implement the new government procurement law is computer software;

Whereas in March 2005 the Chinese Government released draft regulations governing the procurement of computer software;

Whereas the draft regulations require that non-Chinese software companies meet conditions relating to outsourcing of software development work to China, technology transfer, and similar requirements, in order to be eligible to participate in the Chinese Government market;

Whereas as a result of the proposed regulations, it appears likely that a very substantial amount of American software will be excluded from the government procurement process in China;

Whereas United States software companies have made a substantial commitment to the Chinese market and have made a substantial contribution to the development of China's software industry;

Whereas the outright exclusion of substantial amounts of software not of Chinese origin that is apparently contemplated in the regulations is out of step with domestic preferences that exist in the procurement laws and practices of other WTO member countries, including the United States;

Whereas the draft regulations do not adhere to the principles of nondiscriminatory, procompetitive, merit-based, and technology-neutral procurement embodied in the GPA;

Whereas the software piracy rate in China has never fallen below 90 percent over the past 10 years;

Whereas Chinese Government entities represent a very significant portion of the software market in China that is not dominated by piracy;

Whereas the combined effect of rampant software piracy and the proposed discriminatory government procurement regulations will be a nearly impenetrable barrier to market access for the United States software industry in China;

Whereas the United States trade deficit with China in 2004 was \$162,000,000,000, the highest with any economy in the world, and a 12.4 percent increase over 2003;

Whereas China's Premier, Wen Jiabao, has committed to rectify this serious imbalance by increasing China's imports of goods and services from the United States;

Whereas the proposed software procurement regulations that were described by the Chinese Government in November 2004 incorporate policies that are fully at odds with Premier Wen's commitment to increase China's imports from the United States, and will add significantly to the trade imbalance between the United States and China;

Whereas once it is fully implemented, the discriminatory aspects of China's government procurement law will apply to all goods and services that the government procures; and

Whereas other developing countries may follow the lead of China: Now, therefore, be it

- 1 *Resolved by the House of Representatives (the Senate*
- 2 *concurring)*, That it is the sense of the Congress that—
- 3 (1) the Government of the United States should
- 4 strive to expand membership in the Agreement on

1 Government Procurement of the World Trade Orga-
2 nization (WTO);

3 (2) the Government of the United States should
4 seek commitments from the Government of the Peo-
5 ple's Republic of China to enter into immediate ne-
6 gotiations to accede to the Agreement on Govern-
7 ment Procurement of the WTO, in accordance with
8 commitments made by China in 2001 upon joining
9 the WTO;

10 (3) the Government of the United States should
11 seek a commitment from the Government of the
12 People's Republic of China to suspend implementa-
13 tion of its law on government procurement, pending
14 the conclusion of negotiations to accede to the
15 Agreement on Government Procurement of the
16 WTO;

17 (4) the Government of the United States should
18 seek commitments from the Government of the Peo-
19 ple's Republic of China and other countries that are
20 not yet members of the Agreement on Government
21 Procurement of the WTO to implement the prin-
22 ciples of openness, transparency, fair competition
23 based on merit, nondiscrimination, and account-
24 ability in their government procurement as embodied
25 in that agreement; and

1 (5) the President should direct all appropriate
2 officials of the United States to raise these concerns
3 with appropriate officials of the People's Republic of
4 China and other trading partners.

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